



# House of Representatives

General Assembly

**File No. 566**

*January Session, 2009*

Substitute House Bill No. 6328

*House of Representatives, April 8, 2009*

The Committee on Public Health reported through REP. RITTER of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING CUSTOMER ACCESS TO RESTROOMS IN RETAIL ESTABLISHMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this  
2 section:

3 (1) "Customer" means an individual who is lawfully on the premises  
4 of a retail establishment;

5 (2) "Eligible medical condition" means Crohn's disease, ulcerative  
6 colitis, inflammatory bowel disease, irritable bowel syndrome, celiac  
7 disease or a medical condition that requires use of an ostomy device;

8 (3) "Licensed health care provider" means a physician or a physician  
9 assistant licensed under chapter 370 of the general statutes or an  
10 advanced practice registered nurse licensed under chapter 378 of the  
11 general statutes;

12 (4) "Restroom" means a room containing a toilet; and

13       (5) "Retail establishment" means a place of business open to the  
14       general public for the sale of goods or services.

15       (b) Any retail establishment that has a restroom for employee use,  
16       which typically does not permit customer access to such employee  
17       restroom, shall permit a customer to use the employee restroom  
18       during normal business hours if the restroom is maintained in a  
19       reasonably safe manner and all of the following conditions are met:

20       (1) The customer requesting access to the employee restroom  
21       presents written evidence, issued by a licensed health care provider,  
22       that documents that the customer suffers from an eligible medical  
23       condition;

24       (2) A public restroom is not immediately accessible to the customer;

25       (3) At the time that the request for access to the employee restroom  
26       is made, three or more employees of the retail establishment are  
27       working; and

28       (4) The employee restroom is located in an area of the retail  
29       establishment that does not present an obvious risk to the health or  
30       safety of the customer or an obvious security risk to the retail  
31       establishment.

32       (c) A retail establishment or employee of a retail establishment shall  
33       not be liable for any acts or omissions in providing a customer access  
34       to an employee restroom pursuant to the provisions of this section, if  
35       such acts or omissions: (1) Do not constitute gross, wilful or wanton  
36       negligence on the part of the retail establishment or employee of the  
37       retail establishment; (2) occurred in an area of the retail establishment  
38       that is not otherwise accessible to customers; and (3) resulted in injury  
39       or death of a customer or individual other than an employee  
40       accompanying the customer to the restroom.

41       (d) No retail establishment shall be required to make a physical  
42       change to the employee restroom to effectuate the purposes of this  
43       section.

44       (e) The Commissioner of Consumer Protection may impose a civil  
45 penalty of not more than one hundred dollars for a violation of this  
46 section. Any civil penalty collected pursuant to this subsection shall be  
47 deposited in the consumer protection enforcement account established  
48 in section 21a-8a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

**PH**       *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Consumer Protection, Dept.	GF - Cost	63,000	63,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	32,000	32,000
Consumer Protection, Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a cost to the state of approximately \$95,000 as it would require the Department of Consumer Protection to act on complaints concerning access to restroom facilities in retail establishments. This would necessitate the hiring of one Special Investigator. There are over 4,000 such establishments in the state that would be subject to the provisions of the bill. The bill also results in a potential revenue gain through civil penalties imposed by the commissioner for violations of the bill's provisions.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.

**OLR Bill Analysis****sHB 6328*****AN ACT CONCERNING CUSTOMER ACCESS TO RESTROOMS IN RETAIL ESTABLISHMENTS.*****SUMMARY:**

This bill provides access to employee restrooms in retail establishments to individuals with certain medical conditions. Specifically, a retail establishment with an employee restroom that typically is not open to the public must allow a customer to use the restroom during normal business hours if the restroom is maintained in a reasonably safe manner and all of the following conditions are met:

1. the customer presents written evidence from a licensed health care provider (physician, physician assistant, advanced practice registered nurse) that documents that the customer suffers from an “eligible medical condition” (such conditions are Crohn’s disease, ulcerative colitis, inflammatory bowel disease, irritable bowel syndrome, celiac disease, or a medical condition requiring use of an ostomy device);
2. a public restroom is not immediately available to the customer;
3. at least three employees are working in the establishment at the time of the restroom access request, and
4. the employee restroom is located in an area of the establishment that does not present an obvious risk to the health or safety of the customer or an obvious security risk to the establishment.

The bill also (1) provides protection from liability for retail establishments and employees under certain conditions, (2) does not require an establishment to make physical changes to the employee

restroom to accomplish the bill's purposes, and (3) allows the Department of Consumer Protection commissioner to impose a civil penalty of \$100 for a violation, which is deposited in the consumer protection enforcement account.

EFFECTIVE DATE: October 1, 2009

### **RETAIL ESTABLISHMENT, CUSTOMERS, AND RESTROOMS**

The bill defines a "retail establishment" as a place of business open to the general public for the sale of goods or services. A "customer" is a person lawfully on the retail establishment's premises. A "restroom" means a room with a toilet.

### **LIABILITY PROTECTION**

Under the bill, a retail establishment or its employees are not liable for any acts or omissions in providing customer access to an employee restroom if the acts or omissions: (1) do not constitute gross, willful, or wanton negligence by the establishment or employee, (2) occurred in an area of the establishment not otherwise accessible to customers, and (3) resulted in injury or death to a customer or individual other than the employee accompanying the customer to the restroom.

### **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/20/2009)